IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.
Income Tax Application No.70 of 2002

The Commissioner of Income-tax. .. Petitioner
Bombay.
vs.

Merck Sharp & Dhome of India Ltd. .. Respondent

Mrs.P.P.Bhosale for petitioner.
Mr.F. Irani with Mr.Shoeb Khan i/by Crawford Bayley & Co. for respondent.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 28th August 2006

P.C. :

1. Heard Mrs.Bhosale in support of this Application. Mr.Irani appears for the respondent.

2. By consent of the parties, the Application is allowed and the Tribunal is directed to state the case on the following question of law:-

> " Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that only half of the expenditure on samples of Rs.27,03,518/- should be covered by section 37(3A) of the I.T. Act without any evidence that information was obtained from the distribution of the free samples

?"

This is in view of the judgment of the Apex Court in **ESKAYEF vs. Commissioner of Income-Tax** rep**orted in 245 ITR 116**.

3. Application is disposed of.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)